Center for Children & the Courts

Judicial Council of California
Council and Legal Services

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SPECIAL EDITION

NEW LEGISLATION, RULES, AND FORMS - CASE LAW UPDATE

Inside this Issue

Welcome to the *Special Edition* of The Center for Children and the Courts Newsletter. The newsletter is published by the Center for Children and the Courts (Center) located at the Judicial Council, Administrative Office of the Courts in San Francisco. The mission of the Center is to maximize the effectiveness of court services for children and families, implement innovative court-related programs for recipients of juvenile and family court services, and promote those services in the legal community and to the public. The Center works closely with the Judicial Council Advisory Committee on Family and Juvenile Law.

This edition of the Center's newsletter provides recent summaries on case law affecting children and families as well as legislative updates. The Center is pleased to provide you with up-to-date changes in court rules, forms, legislation and case law and we hope you find our newsletter both stimulating and informative.

1998 LEGISLATIVE SUMMARIES

Editor's note: We wish to thank the staff of the Administrative Office of the Courts, Office of Governmental Affairs, for the following legislative summaries.

During the second year of the 1997–1998 legislative session, the Legislature and Governor enacted more than 125 bills that affect the courts and are of general interest to the legal community. Brief descriptions of these measures follow, arranged according to the primary code sections affected. Designators indicate whether the measure is of primary interest to judges and/or court administrators in trial courts (T) or appellate courts (A).

The effective date of legislation is January 1, 1999, unless otherwise noted. Urgency measures normally take effect upon enactment, and some measures have delayed operative dates. Those dates are included where applicable.

The bill descriptions are intended to serve only as a guide to identifying bills of special interest; they are not a complete statement of statutory changes. Code section references are to the sections most directly affected by the bill; not all sections are cited.

Chaptered bills and legislative committee analyses can be accessed at www.leginfo.ca.gov/bilinfo.html on the Internet. Individual chapters also may be ordered directly from the Legislative Bill Room, State Capitol, Sacramento, CA, 95814, 916-445-2323.

CODE OF CIVIL PROCEDURE

CHILDHOOD SEXUAL ABUSE: TIME OF COMMENCING ACTION (T)
AB 1651 ORTIZ, CH. 1032
CCP 340.1
Permits victims to bring actions f or childhood sexual abuse under the extended statute of limitations against not only alleged perpetrators, but also a person or entity who owed a duty of care to the plaintiff. Requires that a plaintiff sue the third-party defendant on or before the plaintiff's 26th birthday.

MINORS SEEKING PROTECTIVE ORDERS (T)
SB 326 LESLIE, CH. 706
URGENCY, EFFECTIVE: 09-22-98
CCP 372, 374, 374.5
Requires courts to allow minors over the age of 12 to appear in court without a guardian and without counsel to request or oppose a protective or restraining order. Authorizes minors under the age of 12 to appear in court without counsel, but with a guardian, for the same purpose. Requires the Judicial Council to adopt related forms.

DOMESTIC VIOLENCE: COMMENCEMENT OF ACTIONS (T)
SB 1939 ALPERT, CH. 123
CCP 640
Extends the statute of limitations for the commencement of an action for recovery of damages suffered as a result of domestic violence. The action must be commenced either within three years from the last act of violence or within three years after the plaintiff discovers, or reasonably should have discovered, that the injury or illness resulted from an act of domestic violence by the defendant, whichever is later.

ELECTIONS CODE

DOMESTIC VIOLENCE: CONFIDENTIAL ADDRESSES (T)
SB 489 ALPERT, CH. 1005
ELE 2166.5; GOV 6205
Creates an address confidentiality program operated by the Secretary of State for victims of domestic violence or those who fear domestic violence. The program includes a substitute address, a mail-forwarding service, and name and address confidentiality in marriage and voter records. Sunsets on January 1, 2005.

FAMILY CODE

DOMESTIC VIOLENCE: CONFIDENTIALITY OF IDENTIFYING INFORMATION (T)
AB 1900 CARDENAS, CH. 511
FAM 240, 4977, 4978, 6322.5, 6327
Establishes a procedure for seeking an ex parte order prohibiting the disclosure of the address or other identifying information of a party or child in an interstate child support case if the court finds disclosure would put the party or child at unreasonable risk for specified harm. Requires the Judicial Council to adopt forms and notices to implement the procedure.

CUSTODY AND VISITATION: SEX OFFENDERS (T)
AB 1645 TORLAKSON, CH. 131
FAM 3030
Requires the court to state in writing or on the record its reasons for granting custody or unsupervised visitation to a person who is required to register as a sex offender for an offense against a child or who has been convicted of one of several enumerated offenses against a child.

CUSTODY AND VISITATION: PARENT CONVICTED OF MURDER (T)
AB 2386 BORDONARO, CH. 705
AB 2745 CARDOZA, CH. 704
FAM 3030; W&I 362.1
Prohibits the family or juvenile courts from granting custody or unsupervised visitation to a parent convicted of murdering the child's other parent, unless the court finds, in writing or on the record, that there is no risk to the child's health, safety, or welfare. Specifies that the court may consider the child's wishes, evidence that the convicted parent was a victim of domestic violence perpetrated by the deceased parent, and expert testimony. Prohibits any person from taking a child to visit or remain in the custody of the convicted parent without a custody or visitation order or the consent of the child's custodian or guardian.

DOMESTIC VIOLENCE: COURT-ORDERED COUNSELING (T)
AB 1837 ALQUIST, CH. 229
FAM 3190
Requires the family court, when determining whether it is appropriate to order outpatient counseling for parties involved in a custody or visitation dispute, to consider, among other relevant factors, any history of domestic violence within the past five years between the parents, between the parent or parents and the child, or between the parent or child and any other party seeking custody or visitation.

FOSTER CARE: ADOPTION: ENFORCEMENT OF SUPPORT (T)
AB 2773 ASSEMBLY COMMITTEE ON HUMAN SERVICES, CH. 1056
FAM 8700, 8707, 8708, 8711;
H&S 1505, 1530.8; W&I 319, 361.3
Conforms state law to the recently enacted federal Adoptions and Safe Families Act, which requires states to enact or amend provisions to expedite permanent placement of foster children. Among other things, shortens the time frames for reunification services for dependent children.

ADOPTION OF DEPENDENT CHILDREN: CONTACT WITH SIBLINGS (T)
AB 2196 WASHINGTON, CH. 1072
FAM 8715; W&I 366.29, 16002
Authorizes the dependency court, with the consent of the adoptive parents, to include in the adoption order provisions to facilitate postadoptive sibling contact. Allows adoptive parents to terminate sibling contact upon written notice to the court that continued contact poses a threat to the health, safety, or well-being of the adopted child. Requires that the case plan, prepared when parental rights have been terminated and the child is to be placed for adoption, include a recommendation regarding sibling visitation and a report on the steps taken to facilitate ongoing sibling contact, unless the court determines that contact is detrimental to the child.

FOSTER PARENT AND CAREGIVER ADOPTIONS (T)
AB 2286 SCOTT, CH. 983
FAM 8730
Changes adoption procedures for relative caregivers and foster parents with whom a child has lived for a minimum of six months. Requires relative caregivers to have had an ongoing and significant relationship with the child in order to receive consideration for expedited adoption proceedings. Gives discretion to the Department of Social Services, adoption agencies, and the court in determining the requirements of the home study.

HEALTH AND SAFETY CODE

DEPENDENCY MEDIATION: FEES (T)
AB 2229 KEELEY, CH. 1062
H&S 103625
Extends the sunset date from December 31, 1998, to June 30, 1999, on the authorization for counties to collect an additional $3 fee for certified copies of birth certificates to fund mediation services in juvenile dependency cases.

PENAL CODE

GRAND JURY: MINORS (T)
AB 377 BAUGH, CH. 755
PEN 939, 939.21
Allows a prosecution witness who is a minor appearing before the grand jury to have a support person of his or her choice present when the proceedings involve specified offenses. Requires that the grand jury foreperson instruct the support person that he or she cannot prompt, sway, or influence the witness in his or her testimony or discuss the proceedings with anyone not in attendance.

CRIME VICTIMS: CRIMINAL PROCEDURE (T)
AB 1077 CARDOZA, CH. 669
PEN 1347
Authorizes until January 1, 2001, the use of closed-circuit television when the testimony of a minor under the age of 10 will involve a recitation of facts about a violent felony committed upon the minor. Requires the Judicial Council to prepare and submit to the Legislature, on or before December 31, 2000, a report on the frequency of use and effectiveness of closed-circuit testimony.

CRIMINAL PROCEDURE: CLOSED-CIRCUIT TESTIMONY (T)
AB 1692 BOWEN, CH. 670
PEN 1347
Allows minors 13 years of age or younger (rather than 10 years of age or younger as provided under current law) who are alleged victims of sexual offenses to testify by closed-circuit television, upon approval by the court.

WELFARE AND INSTITUTIONS CODE

JUVENILES: DETENTION (T)
SB 2147 BRULTE, CH. 694
W&I 207.1, 207.5, 209, 210, 851
Changes the regulation of juvenile detention facilities as it relates to minors in adult facilities, the suitability determinations for juvenile facilities, and the creation of a "home-like environment" in juvenile facilities. Provides that upon a juvenile court judge's or the Board of Corrections' inspection of a juvenile facility, the judge or the Board must promptly notify the operator of the facility of any observed noncompliance with the standards set by law.

JUVENILE COURT DEPENDENTS AND WARDS: ORDERS (T)
SB 2017 SCHIFF, CH. 390
W&I 213.5, 241.1, 726.5, 728
Authorizes the juvenile court in delinquency cases to issue restraining orders, make custody and visitation orders and paternity findings, and appoint a guardian. Requires the court to notify the superior court in which family court proceedings are pending, or in which guardianship was previously established, of these actions. Requires the clerk of the superior court to file that notice and mail a copy of the notice to all parties of record in the proceeding.

JUVENILE DEPENDENCY: OMNIBUS BILL (T)
AB 1091 ASSEMBLY COMMITTEE ON JUDICIARY, CH. 1054
W&I 215, 300, 300.1, 300.5, 301
Eliminates the procedural distinction for children declared dependents before January 1, 1989. Changes the terms "probation officer" to "social worker," and "minor" to "child" throughout the dependency statutes.

CHILD-ABUSE REPORTS: ATTORNEY'S ROLE IN DEPENDENCY REPRESENTATION (T)
AB 2316 KNOX, CH. 900
W&I 317; PEN 11166.1
Enhances the ability of an attorney representing a child who is in protective custody to obtain information regarding any abuse inflicted on the child. Also clarifies that the attorney in a dependency hearing is not required to assume the responsibilities of a social worker and is expected to provide legal services only.

JUVENILE DEPENDENCY: CRIMINAL RECORD CHECK (T)
SB 645 POLANCO, CH. 949
W&I 324.5, 361.3, 361.4
Requires the court or county social worker to conduct a criminal record check on all persons over the age of 18 living in the home when considering placing a dependent child in the home of a relative, guardian, or other person who is not a licensed or certified foster parent. Requires a criminal record check on all persons over the age of 18 who may have significant contact with the child. Requires the court and social worker to consider the results of the criminal records and Child Abuse Index checks when assessing the safety of the proposed placement.

JUVENILE DEPENDENCY: REUNIFICATION: EXEMPTIONS (T)
SB 2091 WATSON, CH. 75
W&I 361.5
In dependency cases, prohibits a parent from receiving reunification services if the parent has willfully abducted the child, or the child's sibling or half-sibling, from his or her placement, and refused to disclose the child's whereabouts or to return the child to

the placement or the child's social worker.

KINSHIP GUARDIAN ASSISTANCE PROGRAM (T)
SB 1901 MCPHERSON, CH. 10 55
W&I 361.5, 366.21, 366.22, 366.3
Creates a new permanency placement option for dependent children called "kinship guardianship." Permits the court, upon appointing a relative as a dependent child's legal guardian at a permanency placement hearing, to terminate dependency jurisdiction and retain jurisdiction over the minor as a ward of the guardianship if the child has been placed with the relative for at least 12 months. Creates the Kinship Guardianship Assistance Payment Program (Kin-GAP) to provide financial assistance to relatives who are appointed legal guardians of dependent children.

ADOPTION OF A DEPENDENT CHILD (T)
AB 2310 WRIGHT, CH. 572
W&I 366.26
Expands the options available to the juvenile court regarding placement of a dependent child, and sets an order of preference for placement. States that the fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child shall not constitute a basis for the court to conclude that the child is unlikely to be adopted. Requires the court, if it finds that termination of parental rights would be detrimental to the child, to state its reasons in writing or on the record.

DEPENDENT CHILDREN: STATUS REVIEW HEARINGS (T)
SB 1482 ROSENTHAL, CH. 355
W&I 366.3
Requires the court, rather than the county welfare department, to conduct the six-month review hearing when the dependency court has terminated parental rights and ordered a child placed for adoption. Requires the court to make necessary orders to protect the stability of the child and to expedite the permanent placement of the dependent child. Requires the county welfare department to prepare a report containing specified information, including any impediments to adoption.

JUVENILES: KIDNAPPING (T)
AB 1290 HAVICE, CH. 925
W&I 676, 707; PEN 261.5, 288, 667.71, 1170.1, 12022.53
Makes applicable to certain kidnapping enhancements provisions of existing law that do the following: Require admission of the public to a juvenile court hearing and require consideration of certain information in the juvenile court's fitness hearing.

JUVENILE DELINQUENCY: DESTRUCTION OF RECORDS (T)
SB 1387 KARNETTE, CH. 374
W&I 781
Prohibits the sealing or destruction of juvenile records for juveniles 16 years of age or older at the time they committed serious or violent offenses. Makes these records available for inspection and use by all law enforcement personnel, prosecutorial agencies, and attorneys for a person who is the subject of those records.

YOUTHFUL OFFENDERS: CONTINUED TREATMENT (T)
SB 2187 SCHIFF, CH. 267
W&I 1801, 1801.5
Recasts and clarifies current law regarding civil commitment of California Youth Authority (CYA) wards beyond the age of 25. Specifically, repeals a redundant procedure regarding hearings to determine if a minor shall continue to be held by the CYA.

MINORS: FOSTER CARE (T)
SB 933 THOMPSON, CH. 311
URGENCY, EFFECTIVE: 08-19-9 8
W&I 11274, 11320.3; GOV 12545; PEN 3100
Generally, makes significant changes to the foster care system in California. Specifically, and among other things, requests the Judicial Council to adopt policies that would facilitate timely educational placement and transfer of educational background information; requires out-of-state group homes that accept children from California to be certified by the Department of Social Services that they meet the same standards as facilities operating within the state; prohibits placement of foster children in facilities that are not certified; requires that counties establish a multi-disciplinary team assessment and placement recommendation process for out-of-state group home placements within six months of the operative date of the bill.

CHILD SUPPORT ENFORCEMENT: INCENTIVE PROGRAM (T)
SB 1410 BURTON, CH. 404
W&I 15200.75, 15200.81, 15200.91, 15200.95
Implements, on a phased-in basis, a performance-based child support incentive pro-gram. Through September 30, 1999, counties that comply with specified data-reporting requirements will be entitled to a combined federal and state incentive payment of 13.6 percent of the county's distributed collections. Beginning October 1, 1999, incentive payments will be based on a county's cost-effectiveness and administrative effort. To receive any state incentives, a county must comply with specific data-reporting requirements and with state and federal child support laws and regulations.

CHILDREN'S SERVICES (T)
AB 1801 DAVIS, CH. 509
W&I 18973
Specifies that an integrated children's services program is a coordinated children's services system that offers a full range of behavioral, health, and mental health services, including applicable educational services, to seriously emotionally disturbed and special-needs children. Clarifies the responsibilities of multidisciplinary team members, which may include "juvenile justice services."

CALIFORNIA RULES OF COURT
Effective January 1, 1999

Rule-Making Process. New rule 6.20 sets forth the Judicial Council's rule-making procedures. As the rule makes clear, anyone may submit a proposal for a rule or form change to the council. We encourage all judges and staff in your courts to make use of this process to address any issues of concern within the council's rule-making authority. Please submit any proposal relating to a rule or form to the Judicial Council, c/o General Counsel, 455 Golden Gate Avenue, San Francisco, CA 94102-3660 or by e-mail to legal_services@jud.ca.gov. We will respond promptly to all proposals.

Footer Rule. Amendments to rules 201 and 501 require that each paper filed in superior and municipal courts include a footer stating the title of the paper in the bottom margin of each page.

Fax Filing in Juvenile Cases. New rule 1406.5 permits fax filing of petitions by designated individuals in juvenile court.

Trial by Written Declaration. New rule 828 establishes a procedure for trials by written declaration for traffic infractions.

Summaries of Rules and Standards

Access and Fairness

Rule 989.2 and Standards 1.5, 1.6, and 24. Nondiscrimination in Court Appointments — The new rule prohibits discrimination in the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and others appointed by the court. The standards recommend (1) that courts establish recruitment procedures for court appointments, including publicizing vacancies at least once a year; and (2) that courts selecting members to serve on committees establish a procedure to ensure that all qualified persons have equal access to the selection process.

Appellate

Rule 26(a). Attorney Fees on Appeal — Amended rule 26(a) provides that, unless the reviewing court orders otherwise, (1) entitlement to recover costs on appeal does not include entitlement to attorney fees on appeal; and (2) entitlement to recover attorney fees on appeal should be decided by motion made in the trial court after the appeal under rule 870.2.

Rule 870.2(b)–(e). Rules on Appeal: Extensions of Time to File Motions for Attorney Fees on Appeal — Amended rule 870.2 (1) allows a party to postpone seeking attorney fees for an appeal that occurred before the end of the litigation until after the litigation has ended; and (2) allows the party to seek those attorney fees on appeal in the same motion in which the party seeks to recover trial court attorney fees. The amendments also allow the time for filing a motion to recover attorney fees on appeal, as well as trial court attorney fees, to be extended by stipulation of the parties or by court order.

Civil and Small Claims

Rules 201 and 501. Form of Papers Presented for Filing — Amended rules 201 and 501 require that each paper filed in superior and municipal courts include a footer stating the title of the paper in the bottom margin of each page. Additionally, amended rule 501 requires litigants to state, on the first page of the complaint or petition, whether the amount demanded exceeds or does not exceed $10,000 and whether the case is a "limited civil case" (i.e., amount in controversy is less than $25,000).

Rules 298, 598, and 827. Telephone Appearance in Municipal and Superior Court — New rule 598 provides procedures for telephone appearances in municipal court (and in limited civil cases in unified courts) similar to those applicable in superior court cases under rule 298. Rule 827, which provided different procedures for telephone appearances, was repealed. Technical amendments were made to rule 298, which governs telephone appearances in superior court.

Rule 826. Notice When Statute or Regulation Declared Unconstitutional — New rule 826 requires that the prevailing party, within 10 days after the court has declared a state statute or regulation unconstitutional, mail to the Attorney General a copy of the judgment and notice of entry of judgment.

Standard 32.5. Information About Alternative Dispute Resolution Programs (ADR) — New section 32.5 of the Standards of Judicial Administration encourages, in appropriate cases, all courts to take appropriate measures to ensure that parties are aware of and consider ADR early in the case, including providing them with information about the ADR methods available and the procedures for initiating ADR. Courts that provide by local rule for case management

conferences or similar events should confer with all parties about ADR processes at or before the initial case management conference or similar event.

Court Interpreters

Rule 984.4. Professional Conduct for Interpreters — The existing Standard of Judicial Administration, section 18.3 (see next), which recommended standards of professional conduct for court interpreters, was repealed, and new rule 984.4 was adopted. The rule establishes mandatory standards of professional responsibility for interpreters. This provides a basis and legal authority for a discipline process for certified court interpreters, which will be developed.

Standards 18, 18.1, 18.2, and 18.3. Interpreted Proceedings — Amendments were made to sections 18 and 18.1. Section 18 recommends procedures for a court to use when determining the need for an interpreter. Section 18.1 recommends instructions for the court to give interpreters and counsel on the procedures to follow in interpreted proceedings. Sections 18.2 and 18.3 were repealed.

Criminal

Rules 33, 35, 39.50, 39.52, 39.53, 39.54, 39.55, and 39.56. Record Preparation in Capital Cases — These amendments (1) change the time limit for filing a motion to correct the record in capital cases in which the trial commenced before January 1, 1997; (2) make clarifying changes in the rules on record preparation applicable to cases in which the trial commenced after January 1, 1997; (3) require that one copy of the reporter's transcript be delivered to the Attorney General in computer-readable form only; and (4) require that copies of the record be provided for postconviction counsel and the Habeas Corpus Resource Center.

Rule 201(h). Habeas Corpus Petition — Amended rule 201(h) requires a habeas corpus petition that is not on the Judicial Council form (Form MC-275) to list all pertinent information, including information regarding the filing of other petitions.

Family and Juvenile

Rules 1201, 1205, 1210, 1211, 1212, 1215, 1216, 1225, 1227, 1236, 1242, 1243, 1247, and 1248. Miscellaneous Modifications to Family Law Rules — These rules were amended to clarify that some of the family law rules apply to proceedings initiated under the Domestic Violence Prevention Act and the Uniform Parentage Act, in addition to proceedings for dissolution and nullity of marriage and legal separation. These amendments also clarify which rules apply to district attorney child support proceedings initiated under the Welfare and Institutions Code. Provisions in Rule 1216 concerning confidential restraining orders were deleted because they were in conflict with Family Code section 6380. Other technical amendments were made to the rules to conform to recent statutory changes. Divisions V and VI of the Appendix to the California Rules of Court were repealed because of statutory changes to the California child support guideline.

Rules 1257 and 1257.3. Uniform Standards of Practice for Court-Ordered Child Custody Evaluations — Rule 1257 is repealed and new rule 1257.3 is adopted to comply with statutory requirements that the Judicial Council develop standards for full and partial court-ordered child custody evaluations, investigations, and assessments.

Rule 1257.1 and Standard 26. Uniform Standards of Practice for Court-Connected Child Custody Mediation — Effective July 1, 2001, section 26 of the California Standards of Judicial Administration will be repealed, and new rule 1257.1, providing standards of practice for court-connected child custody mediation, will be in effect. The revised standards will better serve the growing number of pro per litigants with increasingly complex and diverse family law disputes and ensure minimum service levels and accountability. The effective date of this rule change has been extended to July 1, 2001, to allow time for each family court services unit to consider the administrative or case management changes it may need and to submit and receive funding for whatever incremental or budget development proposals are indicated.

Rule 1257.7. Domestic Violence Training for Court-Appointed Child Custody Investigators and Evaluators — New rule 1257.7 complies with recent statutory changes requiring all court-appointed child custody evaluators and investigators to complete domestic violence training. The rule also establishes training standards.

Rules 1406.5 and 2002. Fax Filing — New rule 1406.5 and amended rule 2002 permit fax filing of petitions by designated individuals in juvenile court.

Rule 1428. Interstate Compact on the Placement of Children — New rule 1428 provides guidance on directing the placement of children who are dependents or wards of the juvenile court in any other United States jurisdiction, including the District of Columbia and the U.S. Virgin Islands.

Rules 1401, 1403, 1413, 1422, 1431, 1432, 1439, 1441, 1446, 1456, 1460, 1461, 1462, 1463, 1466, and 1498. New and Amended Juvenile Law Rules — A number of changes were made to juvenile law rules and forms to conform to statutes and to make them easier to use.

Judicial Administration

Rules 6.1 – 6.90. Rules Governing the Judicial Council and Advisory Committees — The rules governing the Judicial Council and its advisory committees were revised to (1) make them easier to read and better organized, (2) eliminate unnecessary detail, (3) conform to the council's governance principles, (4) update rules about membership on the council and

council committees, and (5) create new rules on the rule-making process and on council meetings. These rules were moved to new Title Six of the rules of court and renumbered with a new two-part numbering system that will be used for all rules on court administration in the future.

Standards 8.8, 25 – 25.6. Standards for Judicial Branch Education — These new and amended sections consolidate the standards for judicial branch education for both judges and court employees. Sections 8.8, 25.3, 25.4, and 25.5 were repealed; section 25 was amended and renumbered as 25.1; and new sections 25, 25.2, 25.3, and 25.6 were adopted.

Standard 37 and Rule 981.5(c). Electronic Filing — New section 37 of the Standards of Judicial Administration offers guidance to courts implementing electronic filing under rule 981.5. Conforming technical amendments were made to rule 981.5(c) to add a reference to section 37 and remove requirements for pilot project approval that became unnecessary after section 37 was adopted.

Standard 38. Access to Electronic Records — New section 38 of the Standards of Judicial Administration encourages trial courts to provide access to their electronic records if their resources permit; it also provides courts with general policy guidelines for such access. The standard, which applies to civil case records that are not sealed or otherwise confidential, states that access should be permitted on a case-by-case basis and by case name or number. It affords latitude to courts to provide access through vendors as long as a commercial provider is not the sole means of access. The standard states that any trial court that provides public access to its electronic records should submit to the Judicial Council a description and an evaluation of its access policies as directed by the council.

Traffic

Rule 828. Trial by Written Declaration — New rule 828 establishes a procedure for trials by written declaration for traffic infractions. Six new forms were adopted for these trials.

DEPENDENCY CASE SUMMARIES

Cases Current Through January 19, 1999

***In re Yuridia* (1998) 68 Cal.App.4th 1301 [80 Cal.Rptr.2d 921] Court of Appeal, Fourth District, Division 3.**

At a Welfare and Institutions Code section 366.26 hearing, the juvenile court terminated parental rights after finding two orphans were adoptable. The termination of any existing parental rights was merely procedural in order to facilitate adoption because the natural parents were dead. When the natural mother died, she expressed her wish that the maternal grandmother care for the children. The maternal grandmother, who lived in Mexico, sent the children to live with their aunt and uncle in the United States so that the younger child could be treated for AIDS. The aunt was later arrested for abuse of her own child after she allegedly hit the child with a jar. The two children were then brought within the jurisdiction of the juvenile court and declared orphans.

The maternal grandmother appealed from (1) the ruling that she and her husband were not the guardians of the children under Mexican law, (2) the denial of her Welfare and Institutions Code section 388 petition, and (3) the judgment that ordered adoption as the permanent plan. The maternal grandfather appealed from the ruling that he was not a guardian of the children under Mexican law and the order denying him de facto parent status. The aunt and uncle appealed from the ruling denying them de facto parent status, which appeal was dismissed as untimely.

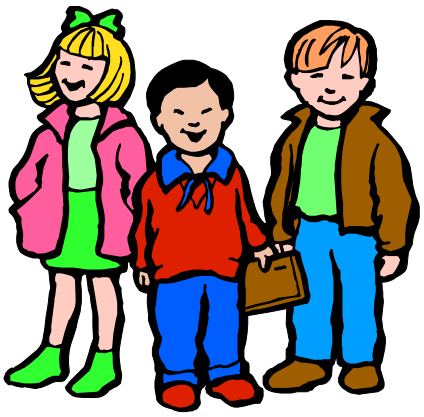
The Court of Appeal reversed the juvenile court. The appellate court found that there was no clear and convincing evidence that the children

were likely to be adopted, which is required by Welfare and Institutions Code section 366.26 subdivision (c)(1) before parental rights can be terminated and adoption selected as the permanent plan. The court reasoned that although the case law interpreting this statute affirmatively states that this does not mean there must be adoptive parents "waiting in the wings", in this specific situation there should be adoptive parents ready to adopt the children. It is undisputed in this case that the children are a "sibling pair" that should not be broken up and that one of the children is afflicted with the AIDS virus. There are adoptive parents who want to adopt the healthy child but not the child with AIDS. The court reasoned that "[u]nder the circumstances of this case — that is, a child with AIDS — we cannot elevate the language in the case law that there is no requirement for a prospective adoptive home to be waiting in the wings into a straitjacket which might leave two children shuttled around in foster care for the rest of their lives.". The court found that when a child is suffering from a serious medical condition such as AIDS and there are relatives willing to adopt and care for the child, something more than speculation that the child will be adopted is required in order to fulfill the statutory need for clear and convincing evidence. The court found that in this narrow situation to fulfill the requirement of clear and convincing evidence one must show the there are adoptive parents "waiting

in the wings" and ready to adopt. As a result, the Court of Appeal reversed the juvenile court ruling terminating parental rights and ordering adoption as the permanent plan.

Addressing the other issues raised on appeal, the Court of Appeal found that the maternal grandparents were not guardians of the children under Mexican law. The court found that California recognizes custody decrees of other nations subject to certain limitations. Here, the grandparents have produced no such decree. The court found, after a review of Mexican law, that parental authority or guardianship does not automatically devolve without the act of a Mexican family law judge.

The court also found that the question of de facto parent status was a non-issue because even if the grandfather had been granted that status he, like the grandmother, would not be entitled to reunification services. The most de facto parent status would give the grandfather would be the ability to add his voice to the grandmothers on the adoptability issue.



***In re Richard C.* (1998) 68 Cal.App.4th 1191 [80 Cal.Rptr.2d 887] Court of Appeal, First District, Division 3.**

The juvenile court terminated the mother's rights to her two sons. The court found the children to be likely candidates for adoption. The children were declared dependents of the court after it was found that the mother's boyfriend was sexually abusing one of the children. The mother resisted compliance with the reunification plan because she did not believe the charges against her boyfriend. She did not accept the existence of abuse until after her boyfriend was convicted. The juvenile court then terminated reunification services. At a Welfare and Institutions Code section 366.26 hearing, the mother's counsel made an oral request, followed later by a written motion, for a bonding study to be done by an independent expert. The juvenile court denied the bonding study.

The mother appealed on the grounds that it was an abuse of discretion to deny the bonding study and that she had a due process right to rebut the Department of Social Services' evidence. The Court of Appeal found that at such a late stage in the proceedings, the right to develop further evidence had all but vanished. The court reasoned that once reunification services are terminated, the focus of dependency shifts from the efforts to reunify the family to finding a safe and permanent home for the children. The compelling state interests in protection and placement of the children overcomes the interests of the parent in reunification.

The appellate court found that under the dependency scheme, the mother is required to develop her evidence prior to the termination of reunification services. The mother in this case attempted to develop the evidence, by way of a bonding study, after termination of reunification services. The appellate court found that the request for a bonding study was too late at this point in the proceedings because it would necessitate a delay in permanency planning and that a delay was already involved by the hearing of a Welfare and Institutions Code section 388 petition. The Court of Appeal found that the juvenile court properly denied the bonding study.

***In re Lucero L.* (1998) 68 Cal.App.4th 912 [80 Cal.Rptr.2d 537] Court of Appeal, Second District, Division 4.**

In a Welfare and Institutions Code section 300, subdivisions (d) and (j) case, the juvenile court entered into evidence, at both the jurisdictional and dispositional hearings, hearsay testimony of the child who was allegedly sexually abused. As a result of the hearsay testimony and other evidence, the court entered jurisdictional and dispositional orders placing the child in foster care. The case involved the dependency of the child who was allegedly sexually abused by her father, based on that abuse and the sexual abuse of the child's half sister. The child had told the social worker that her father touched her, had caused pain, and that she touched his buttocks. The child told her foster mother that her father had touched her rectal area, causing pain. The child also told a police officer that her father had touched her vaginal and rectal areas. She told her half sister (who also testified to abuse by the child's father) that her father had lain on top of her and moved in sexual manner. The child did not testify. However: (1) her statements were incorporated into the social worker's report; (2) her half sister testified about her abuse by the child's father and the statements concerning the abuse by the child; and (3) the social worker, the foster mother, the child's investigator, and two psychologists did testify.

The parents appealed contending that (1) the child's hearsay statements were inadmissible, and (2) the evidence did not support the assertion that the father had sexually abused the child. The Court of Appeal rejected the parents' contentions holding: (1) the hearsay statements in social worker's report were admissible under section 355(c)(1)(B) of the Welf. & Inst. Code, and (2) evidence supported the finding that the father sexually abused child.

Pursuant to *In re Cindy L.* (1997) 17 Cal.4th 15 [947 P.2d 1340], the court noted that the child dependency hearsay exception permits admission in a dependency proceeding of an out-of-court statement of an alleged child sexual abuse victim if: (1) the time, content, and circumstances of the statement furnish adequate indicia of reliability, determined by such factors

as (a) spontaneity and consistent repetition, (b) declarant's mental state, (c) his or her precocious knowledge of sexual matters and use of terminology unexpected of a similarly aged child, and (d) the absence of motive to fabricate; (2) the child is available for cross-examination or there is evidence of sexual abuse corroborating the child's statement; and (3) interested parties are given sufficient notice of the public agency's intent to introduce the statement so they can contest it. The court in *In re Cindy L.* found that the child dependency hearsay exception can apply even where the child is not competent to testify because she cannot differentiate between truth and falsity or understand the duty to speak truthfully. (*Id.* at pp. 18, 34--35) That court reasoned that competency is only one circumstance to consider in determining whether a child's statement is reliable. (*Id.* at p. 18.)

Unlike the *Cindy L.* case, the juvenile court here found Lucero's statements to be uncorroborated. However, the appellate court found Lucero's statements were properly admitted under Welf. & Inst. Code section 355(c)(1)(B): in that the declarant was under the age of 12, was the subject of the jurisdictional hearing, and evidence was not presented to show the statements were unreliable due to fraud, deceit, or undue influence. The court did not agree with the parents' argument that section 355 requires the hearsay declarant to be competent and available for cross-examination. The Legislature could have added a competency requirement when amending section 355 but did not do so. The court noted that because the mother and the father had the right to cross-examine the persons to whom the out-of-court statements were made, due process was not violated.

In addition, the court disagreed with the father's claim that only *In re Cindy L.* applies to hearsay statements in sexual abuse cases, not section 355. "These two exceptions to the hearsay rule have differing requirements; one, the other, or both may apply in any given case, and there is no language in section 355 prohibiting its application in cases of sexual abuse."

Finally, the court found that the evidence supported finding that the father had sexually abused the child and that the mother failed to protect the child from the abuse, even though she knew or reasonable should have known of the risk. The court decided that it need not address the sexual abuse of the half sister in light of all the evidence of abuse of the child.

***In re Jeanette V.* (1998) 68 Cal.App.4th 811 [80 Cal.Rptr.2d 53498], Court of Appeal, Second District, Division 4.**

At the Welfare and Institutions Code section 366.26 hearing, the juvenile court terminated the father's parental rights to free the child for adoption. The child had been born with drug toxicology from her mother's drug use. At the jurisdictional hearing, the court found that both parents had a history of substance abuse and were therefore unable to care for the child. The court found at both the 6-month and 12-month review that the parents had failed to comply with the case plan. At the contested section 366.22 hearing, the court found that returning the child to the parents would be detrimental to the child; the court then terminated reunification services. Before the section 366.26 termination of parental rights hearing was held, the father contacted the Department of Social Services from prison stating that he did not want to lose reunification services and that he wanted a postponement. The father declined to attend the section 366.26 hearing but stated that he wanted the hearing postponed. The social worker noted in the report that the child's foster parents wanted to adopt the child and that the father had not contacted the child since she had been placed in their home.

At the section 366.26 hearing, the mother requested a contested hearing. The court denied the mother's request. The court found that there was no purpose to a contested hearing (1) since the court had found the child was likely to be adopted and (2) because the mother had failed to visit the child, it was not possible for the mother and child to have maintained regular visitation. Therefore the mother was not entitled to a contested hearing because the court's finding at the section 366.26 hearing that the child could not be returned home was sufficient basis to terminate parental rights unless the parent and child had maintained regular visitation. The father's attorney made arguments similar to the mother. The attorney also argued that the court should not receive into evidence the social worker reports without an opportunity for the father's attorney to cross-examine the authors concerning the father's visits with the child. The court implicitly overruled the objection, entered the reports into evidence, and terminated parental rights. The father appealed contending he had a statutory due process right at the section 366.26 hearing to cross-examine the social worker that drafted the report.

The Court of Appeal rejected the father's claim finding that the right to cross-examination applies only to the jurisdictional hearing. Once jurisdiction is established, the admissibility of such reports is no longer conditioned on the availability of the author for cross-examination. The court reiterated that a parent has a right to due process at a section 366.26 hearing that includes a right to "a meaningful opportunity to cross-examine and controvert the contents of the report." (*In re Malinda S.* (1990) 51 Cal.App.3d 368, 379.) However, the court noted that "due process is not synonymous with full-fledged cross-examination rights." (*In re Sade C.* (1996) 13 Cal.4th 952, 992.) The due process right to present evidence is limited to evidence that is relevant and has significant probative value to the

issues before the court. (*People v. Marshall* (1996) 13 Cal.4th 799, 836; *Maricela C. v. Superior Court* (1998) 66 Cal.App.4th 1138, 1147.) Here the critical issue was whether the father had maintained regular visitation and contact with the child and whether the child would benefit from continuation of the relationship. The father's attorney could not deny that the father failed to maintain regular visitation and contact with the child. The purpose of the requested cross-examination was merely to reveal unspecified facts about earlier visits. The court found that the juvenile court did not err in failing to allow cross-examination of the social worker.

***In re Robert L.* (1998) 68 Cal.App.4th 789 [80 Cal.Rptr.2d 578] Court of Appeal, Second District, Division 4.**

The juvenile court extended its jurisdiction over two dependents who had passed the aged of majority. The children were made dependents of the court and placed in long-term foster care with their maternal grandparents. They both are attending college while residing with the grandparents. The children and the grandparents receive financial assistance to provide for food and shelter for the dependents.

The Los Angeles County Department of Children and Family Services (DCFS) appealed contending that jurisdiction should be terminated because there is no grounds for extending jurisdiction over these dependents who have passed the age majority. The Court of Appeal agreed and reversed the juvenile court and remanded the case.

The Court of Appeal found that the extension of jurisdiction must be based upon the existing and foreseeable future harm to the welfare of the child. The children here were striving in a stable, safe, and healthy environment. There was no evidence that either was at any risk of physical, sexual, or emotional abuse, neglect, or exploitation. Extending jurisdiction solely to provide the children with special assistance for the purpose of attending college is improper. Therefore, the extension of jurisdiction over these children once they passed the age of majority was improper.

***In re Cathina W.* (1998) 68 Cal.App.4th 716 [80 Cal.Rptr.2d 480] Court of Appeal, Fifth District.**

The juvenile court terminated the parental rights of the mother. The mother did not attend the hearing that produced the order setting a hearing for a permanency plan. The court, after setting a permanency plan hearing, directed that notice be sent to the mother. The juvenile court clerk did not send the notice until four days after entry of the court's setting order. The date given for the permanency plan hearing in the notice was wrong. The actual date was set for April 24, 1997, while the notice gave August 26, 1997. The notice was eventually returned to the clerk's office by the post office with a label setting forth a new address. The mother never filed an *Intent to File Writ Petition and Request for Record*.

The mother appealed from the permanency plan hearing where the court terminated her parental rights. The Court of Appeal heard, on appeal from the order terminating parental rights, the mother's contentions with respect to the juvenile court's setting order.

The Court of Appeal found that there was good cause here to consider the mother's contentions as to the setting order although she did not file an extraordinary writ. To preserve the right to appeal the propriety of a setting order, a party must timely file an extraordinary writ after the setting order, which includes filing a timely *Intent to File Writ Petition and Request for Record*. The court found, however, that a parent in default of these requirements might still obtain relief from the default if good cause is shown. The court found that relief was warranted here because good cause was shown in that the juvenile court failed to provide the mother with timely and correct notice of the setting order. The court found the parent receives no protection from their attorney in this situation because the burden to pursue appellate rights is on the parent and not the attorney. The court found that the clerk's mistakes are not cured by subsequent notices giving the date of the permanency plan hearing because those notices contain nothing about the proper appellate process following a setting order. The court also found that there was no need to find that the

setting order was prejudicial to the parent since that requires a review of the setting order's merits, which the court is going to do anyway. The court stated that this ruling is consistent with the general rule that timing standards are mandatory and not directory. Failures by the courts, such as this one, simply require the appellate court to allow the parent to raise the propriety of the setting order on appeal from the termination order or to dispense with the case as quickly as possible.

The court then affirmed the juvenile courts ruling terminating parental rights.

***Laura B. v. Superior Court* (1998) 68 Cal.App.4th 776 [80 Cal.Rptr.2d 472] Court of Appeal, Fourth District, Division 3.**

The juvenile court denied reunification services to a mother and set a permanency plan hearing for her daughter. The mother has three other children who are in the custody of the maternal grandmother pursuant to a voluntary guardianship. The mother had admitted to using cocaine at least twice a week during the first two months of the pregnancy and every other week after that. The mother had been through numerous rehabilitation programs.

The mother seeks extraordinary relief from the court order, contending that the denial of services is an abuse of discretion because there is insufficient

evidence to show that rehabilitation programs were available to her. The Court of Appeal found that her argument fails because no such proof is required.

The grounds for denying reunification services for resistance to substance abuse treatment are found at Welfare and Institutions Code section 361.5(b)(12). The provision contains two grounds for denying services. Either the parent with a significant substance abuse problem has resisted treatment within three years prior to the petition, or the parent, while under the supervision of the juvenile court, has twice been provided rehabilitation services that they have failed or refused. The first provision requires only that the parent has resisted treatment within the last three years, not that they received the services within the last three years. The fact that the mother resumed regular drug use within three years of the petition after receiving rehabilitation services is evidence of resistance within the proper time period and is therefore grounds for denying reunification services.

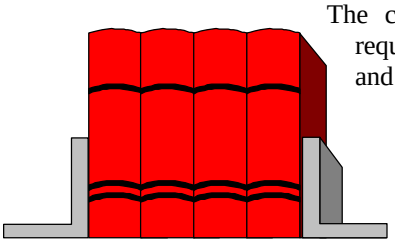
***In re Shelley J.* (1998) 68 Cal.App.4th 322[79 Cal. Rptr.2d 922], Court of Appeal, Sixth District.**

The juvenile court adjudged the child in this case a dependent by jurisdictional and dispositional order. The home environment was found to present a serious risk to health and safety. The child in question had run away for four months. The parents waived their right to a trial as to the jurisdiction of the child and to a formal reading of the petition. The court then found that the report contained enough facts to create a basis for sustaining the petition.

The mother appealed contending that the petition failed to state a cause of action and that there was insufficient evidence to uphold jurisdiction. The Court of Appeal affirmed the order of the juvenile court. As to the first contention, the court found that a claim that the petition fails to state a cause of action may not be first raised on appeal. As to the second contention, the court found that there was sufficient evidence to support the finding of jurisdiction.

Mother claims for the first time on appeal that the petition fails to state a cause of action. She claims that this is proper based on *Alysha S.* (1996) 51 Cal.App.4th 393 [58 Cal.Rptr.2d 494]. The Court of Appeal finds here that that case was wrongly decided. That case relied on Code of Civil Procedure section 430.80(a) and civil cases that preserve the right to raise this issue for the first time on appeal. However, the court found that dependency proceedings are governed by the rules governing criminal cases and appeals unless otherwise specified. Penal Code section 1012 provides that failure to demur to defective pleadings waives the defect. The court found that the waiver was particularly apparent in this case because the mother specifically waived her right to trial and a formal reading of the petition, at which point the court found she understood the nature of the conduct alleged and the potential consequences of the waiver. As result, her claim is barred on appeal.

As to the sufficiency of the evidence to support a finding of the jurisdiction, the court must find that when the petition attempts to show the parent was at fault, it must prove the offending conduct of the parent, the causation, and the serious emotional harm or risk to the child. A child's severe anxiety, depression, withdrawal, or untoward aggression may show serious emotional harm or risk. Here, the court found that a psychologist's evaluations of the child represented sufficient evidence. The evaluation found that the child's running away, hiding from police, and stealing mother's wallet was evidence of severe anxiety, depression, withdrawal, and untoward aggressive behavior attributable to the deplorable conditions created by the parents. This was substantial evidence to meet all prongs necessary to prove that the parents caused emotional harm and that the juvenile court has jurisdiction over the child.



***Shawn S. v. Superior Court* (1998) 67 Cal.App.4th 1424 [80 Cal.Rptr.2d 80]. Court of Appeal, Fourth District, Division 1.**

The juvenile court denied reunification services to a mother based on the fact that there were permanent plans in place for siblings of the child. Four of the child's siblings are dependents placed in permanent plans of long-term foster care because the mother failed to reunite.

The mother sought extraordinary relief claiming the juvenile court wrongly denied reunification services by failing to consider her efforts to treat the problems that gave rise to the dependencies. Mother contends that she has made reasonable progress in curing her problems through participation in structured programs. In the published portion of the opinion, the Court of Appeal found that the juvenile court must consider reasonable efforts in all cases where a child has been removed and not only cases where parental rights have been severed.

The juvenile court based its decision on Welfare and Institutions Code section 361.5(b)(10), which allows the court to deny reunification services where the provision of services is found to be useless. The section is divided into two parts, each giving grounds for denying reunification services. The first allows the denial of services when it is found that the child has siblings or half-siblings who have permanent plans in place. The second allows services to be denied when the parental rights have been severed. At the end of the second part, there is an additional requirement that the parent be found not to have made reasonable efforts to cure the problems that led to the removal of the half-sibling or sibling. The court found that this additional requirement applies to both the first and second part of the statute.

The court, after finding that there was no legislative history, determined the intent of the statute could not be to give those parents with children in permanent plans any less of an opportunity to reunite with the current child than those parents who have had the parental rights to previous children severed. This analysis is supported by the language of the statute, which refers to curing the problems that led to the "removal" of the child. Removal occurs when there is a severance of parental rights or when a child is placed in a permanent plan. Reasonable efforts to cure the problem should therefore apply in all instances of removal. The analysis is further supported by rule 1456(f)(4)(J) of the California Rules of Court, which combines the text of the two parts into one part and applies the reasonable efforts language to all instances where services have been offered and reunification has failed. The court gleaned the case law and determined that it too supported this interpretation by speaking of the need to assess a parent's current parenting skills. Reasonable efforts to cure the problem that led to removal are in essence reasonable efforts to improve one's current parenting skills. Here, the court must consider the mother's reasonable efforts to treat the problems that led to the permanency plans for her previous children.

***Robert T. v. Superior Court* (1998) 67 Cal.App.4th 1472 [79 Cal.Rptr.2d 874]. Court of Appeal, Second District, Division 7.**

Father sought extraordinary writ review of the juvenile court's order setting a hearing for the selection and implementation of a permanent plan for the children. The father contended that there was insufficient evidence to support the findings that reasonable efforts were made to extend reunification services and the return of the children to the parent's custody would create a substantial risk to the children's well-being.

After reviewing the specific facts of this case, the Court of Appeal found that the juvenile court erred in not exercising its discretion to extend reunification services beyond the statutory period. There were three children involved in these proceedings. At a detention hearing for one of the children, the Department of Children and Family Services' petition did not name the petitioner as the child's father. The petitioner did not receive reunification services because he was not named as the father. Neither the petitioner nor the court found out that the petitioner was the father until after a HLA test almost a year later. Reunification services were then offered to the petitioner but only for approximately three weeks when the court terminated the services on the ground that the dependency petition was filed over six months earlier. (The child was an infant when the proceeding was first bought.) The appellate court found that the petitioner was entitled to a minimum of six months of reunification services for this child.

As for the other children, reunification services were offered to the father for a full year as required. The appellate court found that the juvenile court erred in not exercising its discretion to continue those services. The court found that there were exceptional circumstances in this case that warranted the extension of services. The circumstances were that the father had made great strides in completing the reunification plan and that he would succeed in reuniting with the one child for whom he still must receive reunification services. The court found that because of this and the policy favoring preservation of the family unit, and in order to protect and further the existing sibling relationships, the proper exercise of discretion is to extend reunification services not just for the one child but for all the children.

***Elvis P. v. Superior Court* (1998) 67 Cal.App.4th 1363 [79 Cal.Rptr.2d 786]. Court of Appeal, Second District, Division 4.**

Father sought to vacate a juvenile court order terminating reunification services and setting a permanency planning hearing on the grounds that there were exceptional circumstances to extend reunification services. The father was incarcerated during the entire period of the dependency proceedings. He was ordered to comply with a reunification plan that included drug counseling, parenting counseling, random drug testing, and monitored visitation. The father was never offered visitation services but was in compliance with the rest of the plan. The juvenile court found that visitation would have been costly, difficult, and would not have made a difference because the child was so young. The juvenile court found that there were no exceptional circumstances to extend reunification services and terminated the services.

The Court of Appeal found that there were exceptional circumstances to extend services here. In exercising its discretion to extend services, the court should consider such factors as the failure to provide services and the likelihood of success of further reunification services. The court found that although visitation services are not required to be a part of a reunification plan for an incarcerated parent, when the court includes it, there must be a good faith effort to offer those services. Here, there was no such effort; difficulty and cost are not excuses. The court also found that visitation would have helped to establish a meaningful opportunity for family reunification because the child was already 21 months old. The failure to provide visitation services represents a factor that resolves in favor of extending the period for reunification services.

The court found that there was a likelihood of success for further reunification services considering the father's past compliance, his sustained interest in his daughter's progress and well-being, and the fact that he expects to be released from prison three days prior to the scheduled permanency planning hearing. This release gives the father the opportunity to establish a household and develop a concrete plan to support his daughter and creates the tangible possibility that he will successfully reunite with her. It also reduces the logistical problems in providing visitation services and thus gives a real opportunity for father and daughter to establish a relationship. The court found this resolves in favor of the extension of reunification services also and that the juvenile court should have exercised its discretion and extended reunification services.

***In re Pablo D.* (1998) 67 Cal.App.4th 759 [79 Cal.Rptr.2d 247]. Court of Appeal, Fourth District, Division 3.**

The juvenile court found that terminating reunification services after a 12-month review was not appropriate for the youngest child but was appropriate for the siblings after the 18-month review. The child appealed claiming that there was no substantial evidence supporting the court's finding that he would be returned home within 10 weeks of the 12-month review.

The appeals court held that the issue was moot because by the time the case had reached the appellate court there was no remedy that could be fashioned. The case reached the appellate court after the services had been extended and as such they could not be rescinded. The court stated that the proper action is to seek traditional writ relief immediately following the 12-month review so that errors can be dealt with in a timely manner.

***In re Julian L.* (1998) 67 Cal.App.4th 204 [78 Cal.Rptr.2d 839]. Court of Appeal, Second District, Division 4.**

The juvenile court terminated the mother's parental rights. In an unchallenged finding, the juvenile court found reasonable reunification services were provided and returning the child to the mother's custody would be detrimental. The mother, while incarcerated, waived her right to a permanency planning hearing held in October 1997. At the hearing, the court granted the mother's attorney's request to be relieved without substitution or cause. Another attorney was appointed for the mother a week before the next hearing in February, over three months later. The mother did not appear at that hearing, and the court held her waiver from the October hearing was applicable at this hearing. New counsel for the mother requested a continuance on the grounds that there was not enough time between the appointment and the hearing to meet with the mother and find out how she would like him to direct the case. The court denied the continuance and terminated parental rights.

The mother appealed claiming the termination of parental rights was void on the grounds of improper relief of attorney, lack of notice as to the February hearing, refusal to grant a continuance, and the court's failure to consider the child's wishes. The Court of Appeal found that the February hearing was unfair to the mother.

As to the lack of notice, the court found that the October waiver was specific to the October hearing only, and therefore the mother should have received notice of the February hearing. As to the relief of the first attorney, the Court of Appeal found that this was improper because no cause was shown and there was no substitution of attorney. As to the continuance, the court's delay in appointing new counsel impaired the interests of the mother. The court should have allowed enough time for new counsel to meet with the mother so that her interests could have been properly represented. Finally, the court found that it was not enough for the juvenile court to only probe the wishes and feelings of the children about the potential new adoptive parents but that the court must also look into their feelings and desires about the biological parents, which was not done here. For these reasons, the court found that the February hearing was unfair to the mother and the termination of parental rights void.

***In re Michael R.* (1998) 67 Cal.App.4th 150 [78 Cal.Rptr.2d 842]. Court of Appeal, Fourth District, Division 2.**

The sole issue on appeal was whether the juvenile court erred in denying a grandmother's request for de facto parent status. The grandmother was an integral part of the children's lives on a day-to-day basis. She was granted custody of the children at one point on the condition that she not let the abusing father visit the children without supervision. She violated this condition and upon learning that The Department of Public Social Services was going to take the children, she absconded to Texas with them.

The court first found that appropriate standard of review is a deferential

abuse of discretion standard. The inquiry is by nature dependent on factual determinations, including the resolution of disputed facts and credibility. If substantial evidence exists to support the lower court's determination of de facto parent status, then that determination will not be disturbed on appeal.

The court held that the juvenile court did not err in denying the grandmother de facto parent status even though they found she had been their day-to-day caretaker. Citing *In re Kieshia E.* (1993) 6 Cal.4th 68, 78, the appellate court found that a person, otherwise qualifying as a de facto parent by reason of day-to-day care for a child, may be denied de facto parent status if the person has inflicted "substantial harm" on the child. The court found that although the grandmother did not personally inflict harm upon the children, ignoring the father's abusive nature and absconding with the children to Texas so that the father could have unfettered access to them was directly and deliberately putting the children in harm's way. Finding that these were acts of "substantial harm" to the children, fundamentally at odds with the role of a parent, the court extinguished the right to de facto parent status.

***Maricela C. v. Superior Court* (1998) 66 Cal.App.4th 1138 [78 Cal.Rptr.2d 488]. Court of Appeal, Second District, Division 2.**

Parents sought a writ of mandate claiming that they are entitled to a contested hearing pursuant to section 366.3(f) of the Welfare and Institutions Code on the issue of returning the children to the home. The juvenile court denied the request for a contested hearing on the grounds that the parent does not have a right to a contested hearing and the legislative intent was to increase adoptions while requiring the court only to consider the return home of the child.

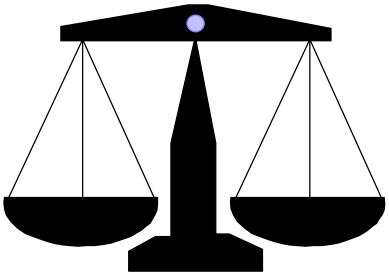
The appellate court found that section 366.3(f) did not give the right to a contested hearing. In examining the statute, the court looked to the legislative history because the language of the statute seems to be unclear. The Legislature amended the statute and, in amending, required the court to consider all permanency planning options but did not add a requirement that the court make an explicit finding of whether it would be detrimental to return the child to the parent. The Legislature, when amending a statute without altering its provisions, is presumed to be aware of and to have acquiesced to past judicial constructions of that statute. The court held that while the Legislature included options the court shall consider in a review of a post permanency plan hearing, it did not include a requirement that the court hold a contested hearing and make specific findings on each of those options. The court would not read into the statute a requirement that the Legislature refused to add.

The court also held that this interpretation of the statute produces a reasonable and workable result even as to the due process rights of the parent. After reunification terminates, the focus of dependency proceedings shifts from maintaining biological ties to providing the children with stability and permanence. The juvenile court is merely required to accept an offer of proof that returning a child to the parents' custody is in the child's best interest. Upon receiving such an offer of proof, the court should then determine if the proof is sufficient to warrant a contested hearing. The court found here that the petitioners did not offer enough evidence to meet their burden to show that return of the children was in the children's best interests. Petitioners represented only that they would challenge the status review report about the quality of the parents' visits but would not challenge the report's statements about the infrequency of the visits. Also, the parents offered proof of their intent and new ability to visit the children more often; however, the court found that even if this were true, it did not create a sufficient basis of evidence on which to justify returning the children to the parents' custody. The court found that without evidence to show that the children's return to parents' custody is in the children's best interest, the petitioners' are not entitled to a contested hearing.

***In re Angel R.* (1998) 66 Cal.App4th 965 [78 Cal.Rptr.2d 311]. Court of Appeal, Second District, Division 7.**

A parent was filed a 39.1B writ petition a juvenile court order setting a hearing under Welfare and Institutions Code section 366.26 for the selection and implementation of a permanent plan with the possibility of the termination of the parental relationship. The parent claimed that the Department of Children and Family Services (the department) did not provide reasonable reunification services during the dependency proceedings, especially during the time the parent was incarcerated out of state.

The court held that there was substantial evidence in the record to support the juvenile court's finding that the services provided by the department were reasonable under the circumstances. The department showed in juvenile court that they had offered the father parenting education, domestic violence counseling, drug counseling, and drug testing. The record also showed that the parent was incarcerated in Las Vegas for much of the dependency proceedings. Welfare and Institutions Code section 361.5(e) provides that an incarcerated parent may have to maintain contact with the child through the use of telephone collect calls. The court found that because the child was only one year old, this would be meaningless. Transportation services, also provided for in the statute, were deemed inappropriate because of the parent's distant out-of-state incarceration. The parent's counsel agreed that the only possible form of contact during the

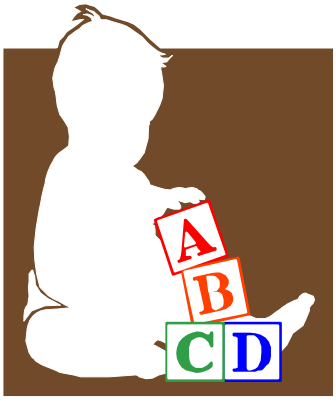


incarceration period was by way of telephone. The court held then that the services offered to the parent were reasonably sufficient.

***In re Charmice G.* (1998) 66 Cal.App.4th 659 [78 Cal.Rptr.2d 212]. Court of Appeal, Fifth District.**

After simultaneous juvenile court orders denying mother's petition to regain custody of her child, granting the Department of Social Services' petition asking permission to move the child out of the state, granting the guardians' petition to modify the permanent plan from guardianship to adoption, and setting the matter for a new section 366.26 hearing, the mother appealed. At the time of her appeal, the mother had a writ petition pending before the appellate court on these matters.

The court found that Welfare and Institutions Code Section 366.26(l) barred the appeal. The ambiguity was that subdivision (*l*) meant either that the aggrieved party must challenge the order setting the hearing (setting order) by appeal directly from it or the aggrieved party must wait and attack the setting order after an order is entered as a result of the section 366.26 hearing. The court held that the statute could only mean the



latter because the case law assumes that subdivision (*l*) forbids a direct appeal following a setting order and the language of the statute is indicative of that. To seek review of a setting order, the aggrieved party must file a timely petition for extraordinary writ that substantively addresses the issues to be raised on appeal, and the writ must be summarily denied or otherwise not decided on the merits. The court here holds that in addition, the appeal must follow an order entered as a result of the section 366.26 hearing and not the setting order.

The portion of the mother's appeal applicable to the denial of her petition for returning the child back to her custody was found to be essential to the setting of the 366.26 hearing. It was found essential because without the denial, the court could not have set the 366.26 hearing because development of permanency planning and return of a child to the parent's custody are mutually exclusive issues. The court held that the portion of the appeal relating only to the denial of mother's petition to return the child back to her must follow the requirements of section 366.26(*l*).

***In re Joshua M.* (1998) 66 Cal.App.4th 458 [78 Cal.Rtpr.2d 110]. Court of Appeal, Fourth District, Division 1.**

A parent was denied reunification services, pursuant to Welfare and Institutions Code section 361.5(b)(10) and (12). The parent appealed from that decision on the grounds that the denial constituted an unfair retroactive application of section 361.5(b)(10) and (12) that denied him due process. The parent further contended that subdivision (b) violated the constitutional protections of due process and equal protection because it discriminates against individuals who can not afford to pay for private reunification services.

As to retroactivity, the Court of Appeal found that "[a] statute is not retroactive in operation merely because it draws upon facts antecedent to its enactment for its operation." The court found that the Legislature clearly intended that section 361.5(b)(10) and (12) rely on events occurring prior to the effective date of the statute for its operation. It reasoned that "the basic purpose of section 361.5(b) — to limit reunification services to situations where they are likely to be successful — would be frustrated by a construction that did not take into account a parent's historical circumstances." The court held that there was no impermissible retroactivity even though the events that activated the provisions of the statute occurred prior to the statute's effective date.

The court found there was no procedural due process violation due to the retroactive application of the statute. Initially the court found that section 361.5(c) provides procedural safeguards. After the court reviewed the relevant case law, it found that the subdivision does not create an irrebutable presumption of inability to parent based on prior court orders, but rather what is examined is the person's current parenting skills, in light of a higher standard of proof, to determine if the child will be deemed a dependent. Thus, the requirement of notice is not violated.

The court also found that there was no constitutional due process or equal protection violation. Initially, the court stated that a parent's interest in the custody and management of their children is one of the most basic and compelling civil rights. However, the child's right to be free from abuse and neglect and to have a stable placement is also compelling. Therefore, the court found that section 361.5(b) is reasonably related to furthering the interests of children. Specifically, the statute advances "a prime purpose of juvenile law — providing protection and stability to dependent children" by exempting from reunification services those parents who are unlikely to benefit. Thus, the court found that there was no substantive due process violation. The court found that this purpose and the limited nature of reunification services are reasonable and proper purposes for classifying those who would benefit from reunification services and those who would not. Thus, there was no equal protection violation.

Finally, the court found that barring certain parents from reunification services bore no resemblance to the constitutionally proscribed act of barring an appeal until record preparation fees are paid. There, the constitutional right of access to the judicial process is denied. Here, a government service, a privilege, is being denied. While access to the

judicial process clearly outweighs the state's interest in revenue to offset costs, access to government services does not. The denial of reunification services does not terminate the parent-child relationship; it merely terminates a government service. In addition, the denial of these services was not based on the indigent status of the parent but rather on the parent's failure to reunite with his son and comply with substance abuse programs. Thus, the court found no constitutional violation.

DELINQUENCY CASE SUMMARIES

Cases Current Through January 19, 1999

***In re George W.* (1998) 68 Cal.App.4th 1208 [80 Cal.Rptr.2d 868] Court of Appeal, Second District, Division 7.**

The juvenile court ordered camp community placement of a child after finding that the child carried a concealed dirk or dagger in violation of Penal Code section 12020, subdivision (a). The police found the folding knife in the child's pocket while conducting a probation search. The blade of the knife locked into position when open, but was closed when the police found it in the child's pocket. The juvenile court found that the knife was intended to stab someone and was a dirk or dagger within the meaning of the law.

The child appeals claiming that the probation search was arbitrary, the knife was not a dirk or dagger, and the juvenile court abused its discretion in ordering camp community placement. The Court of Appeal found that the knife was not a dirk or dagger and reversed the juvenile court. After reviewing legislative history, the Court of Appeal found that on January 1, 1998, the Legislature adopted a bill refining the definition of dirk or dagger in a way that limits what is considered a dirk or dagger. In order for a folding knife to be a dirk or dagger, the blade must be exposed and locked into position. The court found that this provision must be applied literally. Here, the knife was in the child's pocket and closed falling outside the statutory definition of a dirk or dagger. Therefore, the Court of Appeal reversed the juvenile court's finding of dirk or dagger and thus there was no need to address the child's other contentions.

***In re Almalik S.* (1998) 68 Cal.App.4th 851 [80 Cal.Rptr.2d 619] Court of Appeal, Second District, Division 5.**

The juvenile court ordered a child home on probation in the mother's custody. The mother appealed from the disposition and adjudication heard by the juvenile court. The Court of Appeal found that the mother had no standing to appeal.

The court found that the right to appeal is statutory and that Welfare and Institutions Code section 800 controls the right of appeal for a parent who retains custody of the child. (The court did not address the issue of a parent's right of appeal when the child is removed from custody.) The statute originally was interpreted to give standing to parents who lost custody of a child. Then the statute was amended, restricting the right of appeal to the child. The court found that the right of appeal for the parents may no longer be judicially implied and no authority subsequent to the amendment gives parents that right. The court found that the mother here did not have standing to appeal and dismissed the appeal.

***In re Kacy S. et al.* (1998) 68 Cal.App.4th 704 [80 Cal.Rptr.2d 432] Court of Appeal, Third District.**

The juvenile court found that one child fell within the provisions of Welfare and Institutions Code section 602 for challenging a person to a fight in a public place. The court found another child, present at the altercation, fell within the provisions of Welfare and Institutions Code section 602 for using offensive words in a public place that were likely to provoke an immediate, violent reaction. The court did not remove the children from the parents' custody but did require that they submit to drug and alcohol testing as part of their probation. The child found to be fighting was not to associate with any persons not approved by his probation officer.

The children appealed, contending that the drug and alcohol testing violated their constitutional rights to privacy, protection from unreasonable searches and seizures, due process of law, and equal protection. The one child claimed that the requirement that all people be first approved before he associate with them is overbroad. The Court of Appeal found no constitutional violations and upheld the drug and alcohol testing requirements while modifying the association approval requirement to limit this requirement to one person who was involved in the altercation.

As to the drug and alcohol testing requirement, the court found that if the testing requirement were judged on the scale developed in *People v. Lent* (1975) 15 Cal.3d 481, to evaluate the appropriateness of probation conditions, the testing requirement would still be upheld. The court found that the testing requirement relates to conduct that is itself illegal and the conduct to be controlled is reasonably related to future criminality because the Legislature specifically found that drug and alcohol abuse are precursors to serious criminality.

The court found that the drug and alcohol testing requirement did not violate the children' rights to privacy and to be free from unreasonably searches and seizures. The inquiry involves balancing the children' legitimate expectation of privacy against the governmental interests in effective methods to deal with breaches of the peace. Although collection of urine samples under direct monitoring does implicate legitimate privacy interests, the court found that the legitimate expectation of privacy is diminished once a person is put on probation.

Here, the children' diminished expectation of privacy must give way to the strong governmental interests in protecting the public and rehabilitating children, which drug and alcohol testing seek to further.

The court found that the testing requirement did not violate substantive due process and has a real and substantial relation to rehabilitating children. The substantial relation of the drug and alcohol testing requirement to the goals sought to be attained by the government is found to be a reasonable legislative response to serious social problems and thus does not violate due process.

The court found that the drug and alcohol testing requirement did not violate equal protection. The court would not even consider the argument that the discretionary nature of the juvenile court to impose the testing requirement permits discriminatory treatment among probationers. The court found that this argument called for too much speculation. The children also claimed that the discretion to require drug and alcohol testing violated equal protection because it applied only to children who remain in their parents' custody but not to children removed from their parents' custody. The court found that children who remain in their parents' custody and those who are removed are not similarly situated, and thus there is no equal protection violation. The court has less control over the activities of a child who remains in the custody of a parent and this creates a greater need for careful monitoring. Drug and alcohol testing is a means of meeting those needs.

The court found that the claim of overbreadth in the association approval requirement was not lost by failing to assert the objection at trial. Requiring a probation officer to literally approve every single person the child came in contact with would not further the consideration of judicial economy. Since the prosecutor, in response, acknowledged that it would be reasonable to limit the association with one other specific person for a period of time, the court modified the requirement accordingly.

In a dissenting opinion, Davis, J., found that the drug and alcohol testing requirement represented an abuse of discretion and to find otherwise is essentially a grant of unlimited discretion in this area to the trial court.

***In re Khonsavanh S.* (1998) 67 Cal.App.4th 532 [79 Cal.Rptr.2d 80]. Court of Appeal, Fourth District, Division 1.**

The juvenile court made found the appellant guilty of aiding and abetting. There were two incidents of shootings by gang members that the appellant was found to be guilty of aiding and abetting. At the disposition hearing the juvenile court sentenced the appellant to the California Youth Authority and ordered him to undergo an AIDS test. The appellant appealed as to the sufficiency of the evidence to support the court's finding, the order for the AIDS test, and the length of the sentence.

In the certified portion of the opinion, the appellate court addressed the propriety of the AIDS test order. Appellant's counsel never objected to the AIDS test at the disposition hearing, and a lack of objection at the trial level normally constitutes a waiver. However, the court found that this case possessed peculiar circumstances. Involuntary AIDS testing is strictly limited by statute, and nothing in the record indicated any statutory reason for an AIDS test. The statutory reasons for allowing an involuntary AIDS test of a juvenile include when there is a significant risk that a subject of the California Youth Authority transmitted HIV to another subject and permission from the parents has been sought, or when the victim of a sexual crime or the prosecuting attorney petitions for it and the court finds probable cause to believe that there was a transfer of bodily fluids between the juvenile and the victim. None of these or other statutory reasons appeared in the record. In fact, the AIDS test issue came up fleetingly at the end of the disposition hearing when the juvenile court ordered the test and then quickly adjourned. The appellate court found that under these circumstances, it was very likely that appellant's counsel was caught off guard and had little opportunity to react. Therefore, the court found that the juvenile court erred by ordering the AIDS test.

***In re Scott S.* (1998) 66 Cal.App.4th 1528 [78 Cal.Rptr.2d 748]. Court of Appeal, Second District, Division 4.**

A child was found to be under the influence of methamphetamine. The juvenile court judge, at the disposition hearing, stated, "I'm going to give you 90 days in jail. When you get out of camp, should you violate any of my probation — in other words, if you get out, say you use, I swear to God I'll give you 90 days." The minute order stated, "Minor is ordered to spend not less than 0 days nor more than 90 days in Juvenile Hall pursuant to *Ricardo M.* . . . Said time is ordered stayed pursuant to Section 777(e) W.I.C." The child contends, on appeal, that the judge's order violates Welfare and Institutions Code section 777 because a juvenile court cannot impose more than 30 days of *Ricardo M* time.

The appellate court disagreed with the child's contention but did find that if the juvenile court intended to impose more than 30 days for a probation violation, a supplemental petition must be filed and a noticed hearing afforded

where the court conducts a complete examination of all relevant circumstances. The appellate court

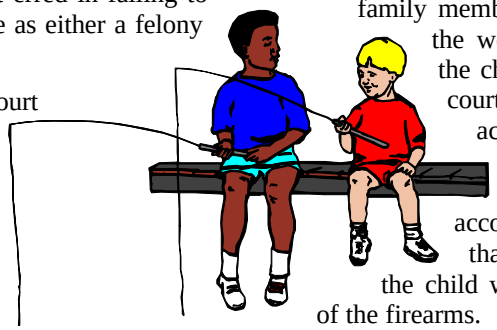
found, based on the forceful words the judge chose in handing down his order, that the judge would impose 90 days notwithstanding any showing made in future hearings. The court found that this exceeded the juvenile court's power and remanded the case for a new disposition hearing.

***In re Jorge M.* (1998) 66 Cal.App.4th 809 [78 Cal.Rptr.2d 320]. Court of Appeal, Second District, Division 4.**

A child was found guilty by the juvenile court of possession of an assault weapon (Pen. Code, § 12250(b)) and unlawful firearm activity in violation of the terms and conditions of probation (Pen. Code, § 12021(d)). The child was earlier made a ward of the court after entering a plea agreement where he admitted that he had been in possession of a controlled substance. Less than a month after the plea agreement, police and probation officers conducted a search of the child's home. During this search they found multiple weapons, one of which was an assault rifle, in the child's bedroom. The child appealed from the juvenile court ruling claiming that the evidence was insufficient to establish that he actually possessed the assault rifle or that he knew or appreciated that the weapon found was an assault weapon. The appeal was also based on the claim that there was insufficient evidence to establish that he possessed firearms in violation of the terms and conditions of probation and that the juvenile court erred in failing to designate each offense as either a felony or a misdemeanor.

While the appeals court determined that there was substantial evidence from which the trial court could conclude the appellant actually possessed the assault weapon, the court found that there was no evidence showing that the appellant knew that the weapon was an assault weapon. In deciding this issue, the court first had to determine if there was a mens rea element to the crime since the statute was silent on the issue. The court, relying on United States and California Supreme Court cases, decided that implying a mens rea requirement is the rule and strict criminal liability is the exception. *Staples v. United States* (1994) 511 U.S. 600; *People v. Simon* (1995) 9 Cal.4th 493. When a statute is silent on mens rea, the court should imply a mens rea element unless the offense in question threatens the public health or safety and is not punishable by lengthy prison terms. In relying on these cases, the court found the line of cases implying strict criminal liability for weapons offenses unpersuasive in light of the recent jurisprudence of the United States and California Supreme Courts. Recognizing a trend away from criminal strict liability, the court stated that because the assault weapons crime may be punished as a felony, a harsh penalty, it is a crime that should have a mens rea element implied until the Legislature affirmatively expresses otherwise. A charge of possession of an assault weapon requires proof that the defendant knew that the weapon was an assault weapon but not that the defendant knew of the law banning possession of assault weapons. Here, the prosecution failed to prove that the defendant knew or appreciated the fact that one of the weapons was an assault weapon.

The court found that there was sufficient evidence that the child was in possession of firearms in violation of the terms and conditions of probation. Notwithstanding the testimony of family members who claimed the weapons belong to the child's brother, the court was free to accept the police and probation officer's account of the facts that indicated that the child was in possession of the firearms.

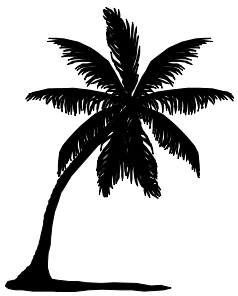


The court then remanded the case so that the juvenile court could designate the offenses as misdemeanors or felonies. When a child is found guilty of an offense that could be punishable as a misdemeanor or a felony when an adult commits the offense, then the court shall declare the offense to be a misdemeanor or a felony. Here, the juvenile court did not make such a declaration so the case was remanded for the juvenile court to designate the one affirmed charge as a misdemeanor or a felony.

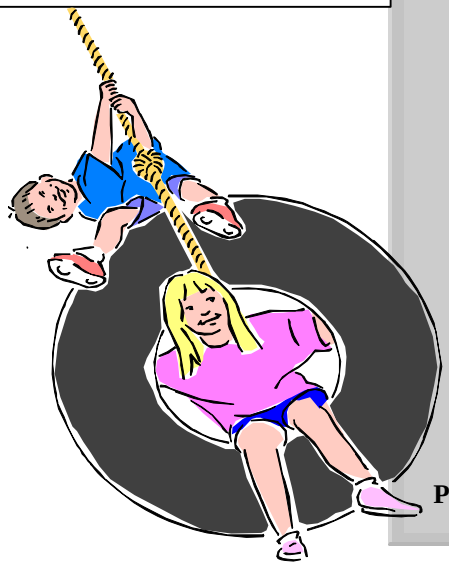
***In re Gavin T.* (1998) 66 Cal.App.4th 238 [77 Cal.Rptr.2d 701]. Court of Appeal, First District, Division 5.**

A 15-year-old was found guilty of criminal assault for throwing an apple that struck a teacher. The juvenile court found that the child did not intend to hit the teacher with the apple; nonetheless he was found guilty of assault under Penal Code section 245(a)(1).

The Court of Appeal held that throwing an apple without intending it to strike someone is not grounds for criminal assault. The court found that one could not be guilty of criminal assault without either the intent to commit a battery or a general criminal intent to do an act inherently dangerous to human life. The court distinguished criminal assault from tort liability by stating that while tort liability is normally predicated on negligence, criminal assault requires some form of intent. The appellant was found guilty of criminal assault and that requires a showing of intent. The court stated that it would be improper to find the child guilty of criminal assault without a finding of intent even if the juvenile court was trying to make an example of the child. Here, the appellate holding is that throwing an apple is not an inherently dangerous act, and if done without the intent to strike someone, it cannot amount to criminal assault.



HAVE SOME IDEAS? WOULD YOU LIKE TO SUBMIT AN ARTICLE? WHAT IS YOUR LOCAL COURT DOING THAT MAKES IT A SUCCESS? Let us know! The Center for Children and the Courts is continuously searching for new and exciting articles to publish in our next newsletter. We would love to showcase your local juvenile court's success stories. Please contact Jennifer Williams, Editor, for more information.



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JUDICIAL COUNCIL FORMS
NEW AND REVISED
Effective January 1, 1999

GENERAL LEGAL (Rule 982)

982(a)(17)	[Rev.]	[2 sides]	Application for Waiver of Court Fees and Costs
982(a)(17)(A)	[Rev.]	[1 side]	Information Sheet on Waiver of Court Fees and Costs
982(a)(18)	[Rev.]	[2 sides]	Order on Application for Waiver of Court Fees and Costs
982(a)(18.1)	[Rev.]	[2 sides]	Order on Application for Waiver of Additional Court Fees and Costs

FAMILY LAW (Rules 1281–1299.67)

1282.50	[Rev.]	[1 side]	Appearance, Stipulations, and Waivers
1285	[Rev.]	[1 side]	Order to Show Cause (Family Law—Uniform Parentage)
1285.05	[Rev.]	[1 side]	Temporary Orders (Family Law—Uniform Parentage)
1285.10	[Rev.]	[2 sides]	Notice of Motion (Family Law—Uniform Parentage)
1285.20	[Rev.]	[2 sides]	Application for Order and Supporting Declaration (Family Law—Uniform Parentage)
1285.40	[Rev.]	[2 sides]	Responsive Declaration to Order to Show Cause or Notice of Motion (Family Law—Uniform Parentage)
1285.79	[New]	[1 side]	Information Sheet on Changing a Child Support Order
1285.88	[New]	[1 side]	Notice of Registration of Out-of-State Support Order
1285.90	[New]	[4 sides]	Request for Hearing Regarding Registration of Support Order
1286	[Rev.]	[2 sides]	Request to Enter Default (Family Law—Uniform Parentage)
1287	[Rev.]	[2 sides]	Judgment (Family Law)
1290	[Rev.]	[1 side]	Notice of Entry of Judgment (Family Law—Uniform Parentage)
1290.5	[New]	[2 sides]	Notice of Withdrawal of Attorney of Record

Family Law Discovery

1292.05	[Rev.]	[1 side]	Declaration Regarding Service of Declaration of Disclosure

Domestic Violence and Child Abuse Prevention
[See new DOMESTIC VIOLENCE forms]

1295.90	[Rev.]	[2 sides]	Emergency Protective Order (CLETS) (Domestic Violence, Child Abuse, Workplace Violence, Civil Harassment)
1296	*[Revoked]*		*Application and Declaration for Order (Domestic Violence) [see new DV–100 and DV–100A]*
1296.10	*[Revoked]*		*Order to Show Cause and Temporary Restraining Order (CLETS) (Domestic Violence) [see new DV–110]*
1296.20	*[Revoked]*		*Responsive Declaration to Order to Show Cause (Domestic Violence Prevention) [see new DV–120]*
1296.29	*[Revoked]*		*Restraining Order After Hearing (CLETS) (Domestic Violence) [see new DV–130]*
1296.31A	[Rev.]	[1 side]	Child Custody and Visitation Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)
1296.31A(1)	[New]	[1 side]	Supervised Visitation Order (Family Law—Domestic Violence Prevention—Uniform Parentage)
1296.31B	[Rev.]	[2 sides]	Child Support Information and Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage—

			Governmental)
1296.31B(1)	[Rev.]	[1 side]	Non-Guideline Child Support Findings Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage—Governmental)
1296.31C	[Rev.]	[1 side]	Spousal or Family Support Order Attachment
1296.40	*[Revoked]*		*Proof of Service [see new DV–140]*
1296.45	[New]	[1 side]	Registration of Foreign Domestic Violence Restraining Order and Order (CLETS) (Domestic Violence Prevention)
			Parentage
1296.60	[Rev.]	[2 sides]	Petition to Establish Parental Relationship (Uniform Parentage)
1296.605	[New]	[2 sides]	Summons (Uniform Parentage—Petition for Custody)
1296.61	*[Revoked]*		*Standard Restraining Order (Uniform Parentage—Custody)*
1296.65	[Rev.]	[1 side]	Response to Petition to Establish Parental Relationship (Uniform Parentage)
1296.70	[New]	[1 side]	Declaration for Default or Uncontested Judgment (Uniform Parentage)
1296.72	[New]	[1 side]	Advisement and Waiver of Rights Re: Establishment of Parental Relationship (Uniform Parentage)
1296.74	[New]	[1 side]	Stipulation for Entry of Judgment Re: Establishment of Parental Relationship (Uniform Parentage)
1296.75	[New]	[1 side]	Judgment (Uniform Parentage)
1296.80	[New]	[1 side]	Petition for Custody of Minor Children
			Support
1297.80	*[Revoked]*		*Notice of Review Hearing Regarding Child Support and Recommendation of Commissioner or Referee (CCP § 640.1)*
1297.82	*[Revoked]*		*Order After Review Hearing (Code of Civil Procedure, § 640.1)*
			Governmental
1298.07	[Rev.]	[2 sides]	Order After Hearing
1299.01	[Rev.]	[4 sides]	Summons and Complaint or Supplemental Complaint Regarding Parental Obligations
1299.07	[Rev.]	[4 sides]	Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment
1299.13	[Rev.]	[2 sides]	Judgment Regarding Parental Obligations
1299.22	[Rev.]	[3 sides]	Stipulation and Order
1299.70	[New]	[3 sides]	Findings and Recommendation of Commissioner
1299.72	[New]	[1 side]	Notice of Objection
1299.74	[New]	[2 sides]	Review of Commissioner's Findings of Fact and Recommendation
			ADOPTION
AD-100	*[Revoked]*		*Petition for Adoption [see new ADOPT-200]*
AD-110	*[Revoked]*		*Consent and Agreement to Adoption [see new ADOPT-210]*
AD-115	*[Revoked]*		*Order of Adoption [see new ADOPT-215]*
AD-120	*[Revoked]*		*Attachment to Petition for Adoption—Adoption of an Indian Child [see new ADOPT-220]*
ADOPT–200	[New]	[2 sides]	Petition for Adoption
ADOPT–210	[New]	[1 side]	Petitioner Consent and Agreement to Adoption
ADOPT–215	[New]	[1 side]	Order of Adoption

Center for Children and the Courts

ADOPT–220	[New]	[1 side]	Attachment to Petition for Adoption—Adoption of an Indian Child
ADOPT–225	[New]	[1 side]	Consent to Termination of Parental Rights and Certification—Adoption of an Indian Child
ADOPT–230	[New]	[1 side]	Accounting Report—Adoptions
ADOPT–310	[Rev.]	[2 sides]	Kinship Adoption Agreement
ADOPT–315	[Rev.]	[2 sides]	Petition for Enforcement, Modification, or Termination of Kinship Adoption Agreement
ADOPT–320	[Rev.]	[1 side]	Response to Petition for Enforcement, Modification, or Termination of Kinship Adoption Agreement
ADOPT–325	[Rev.]	[2 sides]	Order on Petition for Enforcement, Modification, or Termination of Kinship Adoption Agreement

CIVIL HARASSMENT

CH–120	[Rev.]	[2 sides]	Order to Show Cause and Temporary Restraining Order (CLETS) (Harassment)
CH–140	[Rev.]	[2 sides]	Order After Hearing on Petition for Injunction Prohibiting Harassment (CLETS)

CRIMINAL

CR–290	[Rev.]	[2 sides]	Abstract of Judgment—Prison Commitment—Determinate *[formerly numbered DSL 290] [For court use only]*
CR–290.1	[Rev.]	[1 side]	Abstract of Judgment—Prison Commitment—Determinate—Single, Concurrent, or Full-Term Consecutive Count Form *[formerly numbered DSL 290.1] [For court use only]*
CR–290–A	[Rev.]	[1 side]	Abstract of Judgment—Prison Commitment—Determinate—Attachment Page *[formerly numbered DSL 290-A] [For court use only]*
CR–292	[Rev.]	[2 sides]	Abstract of Judgment—Prison Commitment—Indeterminate *[formerly numbered CR 292] [For court use only]*

DOMESTIC VIOLENCE PREVENTION (new)

DV–100	[New]	[4 sides]	Application and Declaration for Order (Domestic Violence Prevention)
DV–100A	[New]	[1 side]	Child Custody, Visitation, and Support Attachment to Application and Declaration for Order (Domestic Violence Prevention)
DV–110	[New]	[4 sides]	Order to Show Cause and Temporary Restraining Order (CLETS) (Domestic Violence Prevention)
DV–120	[New]	[2 sides]	Responsive Declaration to Order to Show Cause (Domestic Violence Prevention)
DV–130	[New]	[3 sides]	Restraining Order After Hearing (CLETS) (Domestic Violence Prevention)
DV–140	[New]	[2 sides]	Proof of Service (Family Law–Domestic Violence Prevention–Uniform Parentage)

ENFORCEMENT OF JUDGMENT

EJ–120	*[Revoked]*		*Statement for Registration of Foreign Support Order and Clerk's Notice [see form 1285.88]*

JUVENILE

JV–050	[New]	[2 sides]	Information for Parents (Juvenile Dependency)
JV–055	[New]	[4 sides]	The Dependency Court: How It Works
JV–100	[Rev.]	[2 sides]	Juvenile Dependency Petition (Version One)
JV–110	[Rev.]	[2 sides]	Juvenile Dependency Petition (Version Two)
JV–320	[Rev.]	[2 sides]	Orders Under Section 366.26 of the Welfare and Institutions Code
JV–360	*[Revoked]*		*Petition for Adoption of Dependent Child [see new ADOPT-200]*
JV–361	*[Revoked]*		*Order of Adoption [see new ADOPT-215]*
JV–363	*[Revoked]*		*Attachment to Petition for Adoption of Dependent Child–Adoption of an Indian Child [see new ADOPT-220]*
JV–450	[Rev.]	[2 sides]	Order for Prisoner's Appearance at Hearing Affecting Prisoner's Parental Rights and Waiver of Appearance
JV–500	[Rev.]	[1 side]	Paternity Inquiry—Juvenile
JV–505	[Rev.]	[2 sides]	Statement Regarding Paternity
JV–510	[Rev.]	[1 side]	Proof of Service—Juvenile
JV–520	[New]	[1 side]	Facsimile Filing Cover Sheet—Juvenile
JV–565	[Rev.]	[1 side]	Findings and Request for Assistance Under Interstate Compact on Placement of Children
JV–567	[Rev.]	[1 side]	ICPC Priority—Findings and Orders
JV–570	[Rev.]	[2 sides]	Petition for Disclosure of Juvenile Court Records

MISCELLANEOUS

MC–220	[Rev.]	[2 sides]	Protective Order in Criminal Proceeding (CLETS)
MC–275	[Rev.]	[6 sides]	Petition for Writ of Habeas Corpus
MC–340	*[Revoked]*		*Age Increase Factor Table [Cal. Rules of Court, Appendix, Division V]*

SMALL CLAIMS

SC–130	[Rev.]	[2 sides]	Notice of Entry of Judgment
SC–134	[Rev.]	[2 sides]	Application and Order to Produce Statement of Assets and to Appear for Examination

TRAFFIC INFRACTIONS (new)

TR–150	[New]	[2 sides]	Instructions on Appeal Procedures for Infractions
TR–155	[New]	[1 side]	Notice of Appeal
TR–160	[New]	[4 sides]	Proposed Statement on Appeal
TR–165	[New]	[2 sides]	Abandonment of Appeal
TR–200	[New]	[1 side]	Instructions to Defendant
TR–205	[New]	[2 sides]	Request for Trial by Written Declaration
TR–210	[New]	[2 sides]	Notice and Instructions to Arresting Officer
TR–215	[New]	[2 sides]	Decision and Notice of Decision
TR–220	[New]	[1 side]	Request for New Trial (Trial de Novo)
TR–225	[New]	[2 sides]	Order and Notice to Defendant of New Trial (Trial de Novo)

WORKPLACE HARASSMENT

WH–110	[Rev.]	[2 sides]	Response to Petition for Injunction Prohibiting Harassment of Employee (Workplace Harassment)